



State of New Jersey

DEPARTMENT OF EDUCATION

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Commissioner

SCHOOL ETHICS COMMISSION

April 3, 2019

Mr. Matt Schapiro, Trustee
Jersey City Board of Education

Jersey City, NJ 07302

SUBJECT: A09-19, Jersey City BOE

Dear Mr. Schapiro:

The School Ethics Commission (Commission) is in receipt of your request for an advisory opinion regarding the actions/conduct of two (2) members of the Jersey City Board of Education (Board). You verified that you copied the Board members who are the subject of your request, thus complying with N.J.A.C. 6A:28-5.2(b). The Commission notes that the Board members who are the subject of your request did not submit comments and, therefore, the Commission will provide its advice based solely on the information included in your request. The Commission's authority to issue advisory opinions is expressly limited to determining whether any prospective conduct or activity would constitute a violation of the School Ethics Act. N.J.S.A. 18A:12-31. Pursuant to N.J.S.A. 18A:12-28(b), the Commission discussed this matter at its meeting on March 26, 2019.

You inform the Commission that Sudhan Thomas, Board President, and Lorenzo Richardson, Vice President, have initiated negotiations with the Jersey City Education Association (JCEA) without authority from the Board and have kept the bargaining sessions "secret from non-conflicted Board members."

You further inform the Commission that Mr. Thomas and Mr. Richardson may have conflicts of interest because of their financial and/or legal relationships with the JCEA. More specifically, Mr. Thomas received donations from the JCEA during his 2016 campaign when the JCEA contributed \$8,200.00 to a company (Glocal Inc.) that is owned by Mr. Thomas. In addition, Mr. Richardson was endorsed by the JCEA in both 2014 and 2017, and was also provided with "significant financial, material and manpower support" from the Garden State Forward, the New Jersey Education Association (NJE) SuperPAC. In addition, Mr. Richardson, in conjunction with the JCEA, sued several members of the Board in 2016, but the matter was ultimately dismissed.¹

¹ The Commission notes that you filed a separate (but related) ethics complaint against Mr. Richardson because, among other things, he represented a person (himself) other than the Board in a proceeding involving the school district in which he serves. This matter (C25-16) remains pending at the Office of Administrative Law (OAL).

Based on the facts as set forth above, you are seeking to determine whether Mr. Thomas and/or Mr. Richardson have a conflict of interest and would violate the School Ethics Act (Act), *N.J.S.A. 18A:12-21 et seq.*, if they continue to participate in negotiations with the JCEA.

As an initial matter, regarding the NJEA's endorsement of Mr. Richardson (2014 and 2017) and his receipt of campaign contributions from the NJEA (2017), the Commission notes that the endorsement of a candidate by a local or statewide union does not create a *per se* conflict unless a financial contribution is given and is intended to influence the Board member in the discharge of his duties as a Board member. However, and based solely on the information in your request, it appears that Mr. Richardson may have opted to support the JCEA over the Board and its individual members when he joined the JCEA in filing a lawsuit. Whether Mr. Richardson's decision was predicated on the support he received from the JCEA during his election, or stemmed from his belief that the actions of certain Board members were inappropriate, his action has the appearance of paying allegiance to the JCEA. By aligning himself with the JCEA to the detriment of the Board and its individual members, it would be reasonable for a member of the public to believe that his involvement violated *N.J.S.A. 18A:12-24(b)* and/or *N.J.S.A. 18A:12-24(c)*. Therefore, the Commission advises that Mr. Richardson should refrain from being involved in future negotiation discussions and meetings, as well as votes related to the JCEA, for the remainder of his current term..

Regarding Mr. Thomas' endorsement by the NJEA and the contribution to his personal company, the Commission notes that these allegations are the subject of a pending complaint and, therefore, the Commission is *presently* unable to opine on this issue.

In addition, your inquiry appears to suggest that Mr. Thomas and/or Mr. Richardson may have failed to follow certain policies and procedures for designating a negotiations committee and initiating negotiations. Although the Commission does not have jurisdiction over such determinations, if you believe that Mr. Thomas and/or Mr. Richardson may have violated a specific Board policy or regulation when they initiated negotiations with and had meetings with the JCEA, you can file a Petition of Appeal with the Bureau of Controversies and Disputes. However, if the Bureau of Controversies and Disputes should find that Mr. Thomas and/or Mr. Richardson violated a specific Board policy or regulation, you may then be able to file a Complaint with the Commission and allege a violation of *N.J.S.A. 18A:12-24.1(a)*. If the Commission substantiates such a violation, it could recommend that the Commissioner of Education impose a penalty, ranging from reprimand to removal.

Finally, school officials must always be cognizant of their responsibility to protect the public trust, to honor their obligation to serve the interests of the public and Board, and to periodically re-evaluate the existence of potential conflicts.

Sincerely,



Robert W. Bender, Chairperson
School Ethics Commission

c: Jersey City BOE Attorney